

Message

From: Smith, Claudia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D6E004792B5C4603873EA2715C07C97E-SMITH, CLAUDIA]
Sent: 11/14/2019 11:06:33 PM
To: Hari Krishna Bharadwaj [HBharadwaj@trinityconsultants.com]
Subject: RE: NSPS OOOOa under Oil and Gas FIP

Hari,

Because there are no enforceable requirements to limit operation of the generators at the new source to less than a year, you should include the potential emissions for the generators as if they will operate an entire year in your estimates of annual potential to emit to determine permitting applicability. Per the definition of potential to emit, you may take into account any applicable enforceable controls for the engines, for instance under NSPS rules. If the new source including the potential emissions for the generator(s) meets the definition of a true minor source, then the FIP can be used for the new source. When the generator(s) is no longer needed and is removed from the source, you can always update the Part 2 registration. If emissions for a full year of operation of the generator(s) at an oil and natural gas source would cause the source to be major, then a permit would be required for the new source and I suggest arranging a pre-application meeting.

The EPA has a general permit for permit for stationary spark ignition engines in Indian country, but it can only be used if such engines are the only emissions units at the source.

Hope that helps,

Claudia

Claudia Young Smith | Environmental Scientist
Air Permitting and Monitoring Branch
U.S. EPA Region 8
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From: Hari Krishna Bharadwaj <HBharadwaj@trinityconsultants.com>
Sent: Thursday, November 14, 2019 3:46 PM
To: Smith, Claudia <Smith.Claudia@epa.gov>
Subject: RE: NSPS OOOOa under Oil and Gas FIP

Hi Claudia,

These would most likely be LNG engines, around 1750 HP (4SLB with oxidation catalysts, NOX -> 0.5 g/hp-hr)

This would be at a new oil and natural gas source.

Thanks,
Hari

Hari Krishna Bharadwaj
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From: Smith, Claudia <Smith.Claudia@epa.gov>

Sent: Thursday, November 14, 2019 3:41 PM

To: Hari Krishna Bharadwaj <HBharadwaj@trinityconsultants.com>

Subject: RE: NSPS OOOOa under Oil and Gas FIP

Hari,

Would the temporary generators be installed at new or existing oil and natural gas sources? What would the horsepower be?

Claudia,

Claudia Young Smith | Environmental Scientist

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From: Hari Krishna Bharadwaj <HBharadwaj@trinityconsultants.com>

Sent: Thursday, November 14, 2019 11:45 AM

To: Smith, Claudia <Smith.Claudia@epa.gov>

Subject: RE: NSPS OOOOa under Oil and Gas FIP

Thank you so much Claudia! Appreciate the assistance immensely.

On another note, What are the permitting options for temporary generators (i.e. will there to supply power for less than a year) in Tribal Land. Do they have to get permits? Can the FIP be used?

Thanks,

Hari

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From: Smith, Claudia <Smith.Claudia@epa.gov>
Sent: Wednesday, November 13, 2019 1:36 PM
To: Hari Krishna Bharadwaj <HBharadwaj@trinityconsultants.com>
Subject: RE: NSPS OOOOa under Oil and Gas FIP

Hari,

That is correct, the Oil and Gas FIP and the incorporation of NSPS OOOOa does not create a “legally and practically enforceable limit,” separately from what otherwise would apply to the source, and, therefore, a source could not point to the FIP to avoid applicability to any of the 8 rules the FIP incorporates.

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From: Hari Krishna Bharadwaj <HBharadwaj@trinityconsultants.com>
Sent: Wednesday, November 13, 2019 1:30 PM
To: Smith, Claudia <Smith.Claudia@epa.gov>
Subject: RE: NSPS OOOOa under Oil and Gas FIP

Thank you so much Claudia for your detailed response. Really appreciate it. Just want to confirm I am getting this right?

- So in a nutshell, the Oil and Gas FIP and the incorporation of NSPS OOOOa does not create a “legally and practically enforceable limit”.
- It is just that the source may account for those controls in the PTE estimates for true minor source determination, **not for OOOOa determination** (i.e. the uncontrolled PTE is greater than 6 tpy, they are subject to all the requirements of OOOOa for tanks)

Thanks,
Hari

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Senior Consultant

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From: Smith, Claudia <Smith.Claudia@epa.gov>
Sent: Wednesday, November 13, 2019 11:20 AM
To: Hari Krishna Bharadwaj <HBharadwaj@trinityconsultants.com>
Subject: RE: NSPS OOOOa under Oil and Gas FIP

Hari,

The Oil and Gas FIP does not separately impose/establish enforceable requirements above and beyond what already applies under each of the 8 rules it references. It just requires a true minor source to comply with those rules, as they already apply to it. Therefore, if the source in question is expected to meet the applicability criteria for the storage vessel control requirements under NSPS OOOOa (in this case the potential to emit VOC from a storage vessel is greater than or equal to 6 tpy) and be in compliance with those requirements, then the source may account for those controls in calculating the source-wide potential to emit to determine whether or not the source is a true minor source and may use the FIP to authorize construction. However, the source may not get out of the need to comply with the applicable requirements of NSPS OOOOa by complying with NSPS OOOOa. The EPA explained this concept in the preamble to the FIP at 81 FR pages 35946-35948, excerpted below, emphasis added:

“For purposes of this FIP, true minor sources must comply with these standards, as they currently exist or as amended in the future, except for those provisions that we specifically exclude under the FIP (unless the source opts-out of the FIP and obtains a source-specific permit or is otherwise required to obtain a source-specific permit by the Reviewing Authority). This includes the amendments to the oil and natural gas NSPS that have become part of the final oil and natural gas NSPS as a result of the 2016 final oil and natural gas NSPS. Sources subject to this FIP would be subject to any future changes to the eight underlying EPA standards only if they undergo a future minor modification as a true minor sources and would otherwise be subject to those future changes. To help understand the requirements of this oil and natural gas FIP, please see the 2016 final oil and natural gas NSPS and the provisions for each of the eight federal rules (i.e., five NSPS and three NESHAP) identified in Table 2.4 (This FIP does not change the applicability of the specified standards, nor does it relieve sources subject to the standards from complying with them, independently of this FIP.)”

“We are requiring under this FIP that owners/operators of new true minor sources and modifications of existing true minor sources comply with all applicable requirements of the eight federal rules listed in Table 2 above in effect at the time they begin construction, except for the excluded provisions indicated below. In general, for this FIP, we are excluding specific provisions of the rules for three reasons: (1) They are not relevant (e.g., equipment that is not used in this sector); (2) they would not apply to the oil and natural gas production and natural gas processing segments of the oil and natural gas sector; (3) they apply only to equipment manufacturers and not to owners/operators.”

Further, this concept is addressed in the summary of the response to comments on page 35958 of the preamble, excerpted below, emphasis added:

“Comment #7: One commenter requested that the EPA clarify how the proposed FIP will provide practical enforceability when several of the six rules included in the proposed FIP, such as 40 CFR part 63, subpart HH, do not contain practically enforceable requirements. The commenter noted that, because several of the standards do not contain practically enforceable requirements, sources that wish to restrict their PTE will be forced to obtain a source-specific permit. The commenter stated that the proposed FIP would fail to achieve the objective of providing sources a streamlined approach for obtaining legal and practically enforceable emission limitations. Response #7: A source has to be a true minor source to use the FIP. The FIP is not intended to provide a mechanism for establishing synthetic minor sources. We have not made any changes in response to this comment.”

“Comment #8: One commenter (a state agency) (0049) noted that North Dakota regulations for natural gas capture have been enforced on the Fort Berthold Indian Reservation under multiple tax and regulatory agreements between the state and tribes. The commenter stated that the proposed rule will increase the number and complexity of conflicts with North Dakota regulations and the existing negotiated agreements. One commenter stated that the proposed rule could have significant impacts on their ability to administer their oil and natural gas regulatory program, and recommended that the proposed rule recognize and give deference to existing state and tribal agreements for natural gas permitting and regulation.

Response #8: The FIP adopted through this final action only applies to sources locating in Indian country and does not impose any requirements on sources located on state lands. The EPA also notes that the State of North Dakota has not been approved by the EPA to administer any program under the federal CAA on the Fort Berthold Indian Reservation. The EPA notes that there are no new requirements included as part of the FIP, only those rules already applicable to oil

and natural gas sources under existing federal NSPS and NESHAP rules are included. We have not made any changes in response to this comment.”

If you have any further questions regarding this concept, please contact me.

Thank you,

Claudia Young Smith | Environmental Scientist

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From: Hari Krishna Bharadwaj <HBharadwaj@trinityconsultants.com>

Sent: Tuesday, November 12, 2019 11:29 AM

To: Smith, Claudia <Smith.Claudia@epa.gov>

Subject: NSPS OOOOa under Oil and Gas FIP

Hi Claudia,

Hari here with Trinity Consultants; I have a Tribal NSR question that I would like your input on.

A client of ours has some midstream sites on Tribal Land; these sites have storage tanks; so I was thinking that they could use the Oil and Gas FIP if they are a true minor source.

The question is, by using this FIP and the federal enforceability offered by it (because NSPS OOOOa is incorporated into this FIP), can they stay under 6 tpy of VOC (via controls) and thereby not be subject to NSPS OOOOa for the tanks per 40 CFR 60.5365a(e)

*“Each storage vessel affected facility, which is a single storage vessel with the potential for VOC emissions equal to or greater than 6 tpy as determined according to this section. The potential for VOC emissions must be calculated using a generally accepted model or calculation methodology, based on the maximum average daily throughput determined for a 30-day period of production prior to the applicable emission determination deadline specified in this subsection. **“The determination may take into account requirements under a legally and practically enforceable limit in an operating permit or other requirement established under a federal, state, local or tribal authority”.***

Thanks,

Hari

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